CHANGES MADE TO EPCRS
BY REVENUE PROCEDURE 2006-27, IRB 2006-22

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 1- Purpose and Overview • Describes the purpose of the revenue procedure i.e. updating "the comprehensive system of correction programs for sponsors of retirement plans that are intended to satisfy the requirements of §§ 401(a), 403(a), 403(b), 408(k), *or* 408(p) of the Internal Revenue Code (Code), but that have not met these requirements for a period of time." Section 1.01 • Outlines the general principles underlying EPCRS including encouraging plan sponsors to: administer the plans in accordance with the terms of the plan and Internal Revenue Code (Code), establish administrative practices and procedures, voluntary and timely correction of plan failures etc. Section 1.02 • Provides an overview of the 3 elements of EPCRS: Self-Correction (SCP), Voluntary Correction with Service Approval (VCP) and Correction on audit (SCP) Section 1.03	**Section 1- Purpose and Overview** The revenue procedure retains the same provisions for this section.

CHANGES MADE TO EPCRS
BY REVENUE PROCEDURE 2006-27, IRB 2006-22

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 2- Effect of This Revenue Procedure On Programs Section 2.01- Effect on Programs This section describes the manner in which Revenue Procedure 2003-44 modified and superseded Revenue Procedure 2002-47. This section provides a summary of the changes made by this revenue procedure. Significant changes included: consolidating all voluntary correction programs into one program (section 4.01); providing a fixed fee structure for VCP (section 12); expanding ECPRS to include SIMPLE IRAs; providing guidance on correction for SEPs/SIMPLE IRAs (section 6.10), participant loan failures (section 6.07), the failure to obtain spousal consent (section 6.04); providing guidance for exceptions to full correction on account of imprecise and unavailable data (section 6.02(5)(a)); providing guidance for EGTRRA non amenders (section 4.10); updating definitions and providing guidance on other procedural matters (see the above referenced section in the revenue procedure for additional details).	**Section 2- Effect of This Revenue Procedure On Programs** Section 2.01- Effect on Programs This section describes the manner in which Revenue Procedure 2006-27 modified and superseded Revenue Procedure 2003-44. This section provides a summary of the changes made by this revenue procedure. Significant changes include: • adding correction methods to correct plan loan failures (section 6.02(6); 6.07) and the failure to obtain spousal consent (section 6.04(2)(c)); *(re: participant loans- provides for relief from treating certain loans as deemed distributions; re: spousal consent- provides for the option of making a lump sum payment to the affected spouse)* • revising the correction method for the failure to correct for a failure to include an eligible employee in a 401(k) plan (section 6.02(7),Appendix A .05, and Appendix B 2.02) *(provides for a replacement contribution on behalf of the employee =50% times "missed deferral" for the failure to provide the employee with the opportunity to make salary reduction contributions. For after-tax employee contributions, replacement contribution = 40% times "missed after-tax employee contribution)* • providing rules for the availability of programs under EPCRS in cases where the plan or plan sponsor is a party to an Abusive Tax Avoidance Transaction (sections 4.13 and 11.02(11)) *(new disclosure requirement re: plan/ plan sponsor's participation in an "ATAT"; participation by the plan/plan sponsor in an "ATAT" can eliminate the availability of programs under EPCRS)* • revising the requirements for submitting a determination letter application when correcting certain Qualification Failures by plan amendment. (sections 4.06, 10.08 and 11.03(3)) *(generally submission not required unless the amendment is adopted to correct a non-amender failure and/or the amendment is adopted to correct failures in the plan's cycle year/ year of termination)*

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
	Section 2.01 contd.. • expanding VCP and Audit CAP to include Orphan Plans. Possible fee waiver under VCP for terminating Orphan Plans. Possible correction that is less than full correction may be required from terminating Orphan Plans. (sections 5.06, 6.02(5)(f), 12.02(3)) • expanding excise tax areas that the Service may not pursue. (section 6.09(3) and (4)) *(IRC 4972- for corrective contributions required to correct VCP failure; IRC 4979- VCP applications at the discretion of the Service)* • reducing the compliance fee for a plan for a plan with the sole failure of satisfying the minimum distribution rules for 50 or fewer employees (section 12.02(2)) *(VCP fee = $500)* • reducing the compliance fee for a plan where the sole failure is the failure to timely adopt certain plan amendments. (section 12.03) *(VCP fee= $375; failure to adopt EGTRRA good faith/ 401(a)(9) final and temp regs./ interim amendments pursuant to RP 2005-66)* • providing a streamlined submission procedure for certain nonamender failures (Appendix F) *(EGTRRA good faith/ 401(a)(9) final and temp. regs./ interim amendments pursuant to RP 2005-66.)* • reducing the compliance fee for SEPs and SIMPLE IRAs. (section 12.05) *(VCP fee= $250)* • adding a fee schedule for plans in the determination letter process found to be nonamenders of tax law changes. (section 14.04) • providing that if the non amender failure is discovered during an Employee Plans examination, then it is expected that the sanction will be greater than the schedule in section 14.04. (section 14.02) • updating definitions and providing guidance on other procedural matters (see the above referenced section in the revenue procedure for additional details).

CHANGES MADE TO EPCRS
BY REVENUE PROCEDURE 2006-27, IRB 2006-22

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 2.02- Future enhancements • Invites further comments on how to improve EPCRS (section 2.02(1)) • Requested specific comments on appropriate correction procedures for failures arising under §457(b) plans; plans with § 408(q) "deemed IRA" provisions. (section 2.02(2)) • § 457(b) plans, plans with § 408(q) "deemed IRA" provisions will be accepted on a provisional basis outside of EPCRS. (section 2.02(2)) • "The Service and Treasury are evaluating the availability of the correction procedures under EPCRS for any failures related to a plan's participation in a transaction that is a reportable transaction under Treas. Regs. § 1.6011-4(b). Until this evaluation is completed, the Service reserves its right to treat any such failures as ineligible for EPCRS or to deal with any such failures outside EPCRS." (section 2.02(3)) *(note: the new Revenue Procedure 2006-27 follows up on this issue in its provision relating to "abusive tax avoidance transactions". In particular, refer to section 4.13 of Revenue Procedure 2006-27)*	Section 2.02- Future enhancements • Invites further comments on how to improve EPCRS (section 2.02(1)) • Requests specific comments on certain specific issues under EPCRS (section 2.02(2)). Comments are requested on: 1. Methods to correct a failure to provide an eligible employee the opportunity to make a catch-up contribution that is permitted under the terms of the plan and § 414(v). 2. Methods to correct a failure to provide an eligible employee with the opportunity to make elective deferrals for a plan that permits an eligible employee to designate elective deferrals as Roth contributions. 3. Methods to correct § 415 violations given that the corrective mechanism in current §1.415-6(b)(6) is not included in the regulations recently proposed under § 415 and the preamble provides that the corrective mechanism (for excess annual additions) will be included in EPCRS in the future. 4. Whether additional correction methods are needed in order for plans to take advantage of the fiduciary safe harbor issued by the Department of Labor for Orphan Plans where the plan is subject to the requirements of §§ 401(a)(11) and 417 in light of the ability to satisfy those requirements by purchase of a commercial annuity contract.

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 3. Effect of EPCRS; Reliance Section 3.01 "Effect of EPCRS on Qualified Plans. For a Qualified Plan, if the eligibility requirements of section 4 are satisfied and the Plan Sponsor corrects a Qualification Failure in accordance with the applicable requirements of SCP in section 7, VCP in sections 10 and 11, or Audit CAP in section 13, the Service will not treat the Qualified Plan as failing to meet § 401(a). Thus, for example, if the Plan Sponsor corrects the failures in accordance with the requirements of this revenue procedure, the plan will be treated as a qualified plan for purposes of applying § 3121(a)(5) (FICA taxes) and § 3306(b)(5) (FUTA taxes)." Section 3.02 Effect of EPCRS on 403(b) Plans. If the eligibility requirements are satisfied and the Plan Sponsor corrects a failure in accordance with the applicable requirements of SCP, VCP or Audit CAP, the Service "will not pursue income inclusion for affected participants, or liability for income tax withholding, on account of the failure." (section 3.02(1)) "Excise taxes, FICA taxes and FUTA taxes, if applicable, that result from a failure are not waived merely because the failure has been corrected." (section 3.02(2) Section 3.03 Effect of EPCRS on SEPs and SIMPLE IRA Plans If the eligibility requirements are satisfied and the Plan Sponsor corrects a failure in accordance with the applicable requirements of SCP, VCP or Audit CAP, "the Service will not treat the SEP or SIMPLE IRA as failing to meet § 408(k) or § 408(p), as applicable. Thus, for example, if the Plan Sponsor corrects the failures in accordance with the requirements of this revenue procedure, the SEP will be treated as satisfying § 408(k) and the SIMPLE IRA Plan will be treated as satisfying § 408(p), for purposes of applying § 3121(a)(5) (FICA taxes) and § 3306(b)(5) (FUTA taxes)."	**Section 3. Effect of EPCRS; Reliance** *The revenue procedure consolidates sections 3.01, 3.02 and 3.03 of Revenue Procedure 2003-44 to a single section 3.01. Similar to Qualified Plans, the correction of failures under EPCRS for a 403(b) plan, will result in the plan being treated as if it always satisfied the provisions of § 403(b) for purposes of FICA/FUTA. There is a uniform standard re: FICA/FUTA for all types of plans when failures are corrected pursuant to EPCRS. The new section 3.01 is reproduced below:* Section 3.01 " Effect of EPCRS on Retirement Plans. For a Qualified Plan, a 403(b) Plan, a SEP, or a SIMPLE IRA Plan, if the eligibility requirements of section 4 are satisfied and the Plan Sponsor corrects a failure in accordance with the applicable requirements of SCP in section 7, VCP in sections 10 and 11, or Audit CAP in section 13, the Service will not treat the retirement plan as failing to meet § 401(a), § 403(b), § 408(k), or § 408(p), as applicable. Thus, for example, if the Plan Sponsor corrects the failures in accordance with the requirements of this revenue procedure, the plan will be treated as satisfying § 401(a), § 403(b), § 408(k), or § 408(p), as applicable, for purposes of applying § 3121(a)(5) (FICA taxes) and § 3306(b)(5) (FUTA taxes)."

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 4 – Program Eligibility Consists of provisions that describe the eligibility requirements for the 3 EPCRS programs- SCP, VCP and Audit CAP. (see section 4 for details) Section 4.05 addresses the availability of correction of Operational Failures by plan amendment pursuant to either VCP or SCP. (This provision was updated in the new Revenue Procedure 2006-27. see details in parallel narrative under Revenue Procedure 2006-27) Section 4.06 addresses the requirement for submitting a determination letter when the plan sponsor is correcting a failure by adopting a retroactive plan amendment. It generally required that a submission was required unless the failure the corrective amendment was a model amendment, as designated by the Service, or involved the adoption of a previously approved prototype/volume submitter document. In addition, the section prescribed a time limit for a determination letter submission for SCP corrections, by requiring that "the determination letter application must be submitted before the end of the SCP correction period in section 9.02." (Section 9.02 generally provides that the correction period ends on the last day of the second plan year following the plan year in which the failure occurred). *The new Revenue Procedure 2006-27 revises section 4.06. Revenue Procedure 2006-27 generally limits the situations when a determination letter submission would be required under VCP and Audit CAP. Revenue Procedure 2006- 27 also revises the time frame for a determination letter submission under SCP. (See parallel narrative under Revenue Procedure 2006-27). As a result of the changes in section 4.06, the separate paragraph relating to EGTRRA non amenders (section 4.10) was not inserted in the new Revenue Procedure 2006-27. In addition sections 6.05, 9.03 and 10.06 were updated.*	**Section 4 – Program Eligibility** Consists of provisions that describe the eligibility requirements for the 3 EPCRS programs- SCP, VCP and Audit CAP. (see section 4 for details) Section 4.05 was re-organized and updated in the new revenue procedure. The section now provides that correction by plan amendment is available for Plan Document Failures, Operational Failures and Demographic Failures under both VCP and Audit CAP. The section also clarifies that correction by plan amendment under SCP is only available to correct Operational Failures listed in § 2.07 of Appendix B. *(note: App. B §2.07 has been expanded to include the plan's failure to provide for participant loans)* Section 4.06 was reorganized into two parts: 4.06(1) and 4.06(2). Section 4.06(1) addresses the determination letter submission requirement when a plan sponsor is correcting a failure by adopting a retroactive plan amendment under VCP and Audit CAP. This section now provides, in part, that a determination letter will be issued "(a) to correct a nonamender failure, or (b) to correct a failure in either a VCP filing submitted for a terminating plan or a terminating plan under examination. In addition, a determination letter may be issued to correct a failure in a plan that is either submitted under VCP or that is being examined during the last 12 months of the plan's remedial amendment cycle, as defined in section 13 of Rev. Proc. 2005-66, 2005-37 I.R.B. 509 (an "on-cycle" filing)." The section also provides that that the Service reserves the right to require a determination letter submission in other situations. *See section 4.06(1) for additional details e.g. definition of "non amender, scope of determination letter. Also see this section and section 10.08 for information on the scope of the compliance statement being issued.* Section 4.06(2) revises the time frame for a determination letter submission under SCP. The section requires that a correction of an operational failure through plan amendment under SCP, a plan sponsor must submit for a determination letter. "The determination letter application must be submitted before the end of the plan's applicable remedial amendment period described in Rev. Proc. 2005-66."

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
	Revenue Procedure 2006-27 added new provisions to section 4. Some are additional eligibility requirements for EPCRS programs. Some are sections that were previously present in other parts of this revenue procedure. Section 4.08 [NEW] "Availability of correction of a terminated plan. Correction of Qualification Failures in a terminated plan may be made under VCP, whether or not the plan trust is still in existence." (replaces section 10.03 of Revenue Procedure 2003-44) Section 4.09 [NEW] "Availability of correction of an Orphan Plan. An Orphan Plan that is terminating may be corrected under VCP and Audit CAP, provided that the party acting on behalf of the plan is an Eligible Party, as defined in section 5.06(2)." (see related section 5.06 for relevant definitions of Orphan Plan, Eligible Party) Section 4.10 [NEW] " Availability of correction of § 457 plans . Submissions relating to § 457(b) eligible governmental plans will be accepted by the Service on a provisional basis outside of EPCRS through standards that are similar to EPCRS." (replaces similar provision in section 2.02(2) of Revenue Procedure 2003-44) Section 4.11- Updates what was previously section 4.08 of Revenue Procedure 2003-44. New example for egregious failures was added. And, clarifies that Audit CAP is available to correct egregious failures. The section now provides: " Egregious failures. SCP is not available to correct Operational Failures that are egregious. For example, any of the following would be considered egregious: (a) a plan has consistently and improperly covered only high compensated employees; (b) a plan provides more favorable benefits for an owner of the employer based on a purported collectively bargained agreement where there has in fact been no good faith bargaining between bona fide employee representatives and the employer (see Notice 2003-24, 2003-18 I.R.B. 853, with respect to welfare benefit funds); or (c) a contribution to a defined contribution plan for a highly compensated individual is several times greater than the dollar limit set forth in § 415." VCP is available to correct egregious failures; however, these failures are subject to the fees described in section 12.06. Audit CAP is available to correct egregious failures.
Section 4.08 provides: "Egregious failures. SCP is not available to correct Operational Failures that are egregious. For example, if an employer has consistently and improperly covered only highly compensated employees or if a contribution to a defined contribution plan for a highly compensated individual is several times greater than the dollar limit set forth in § 415, the failure would be considered egregious. VCP is available to correct egregious failures; however, these failures are subject to the fees described in section 12.06."	

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 4.13, relating to Abusive tax avoidance transactions, was added to the new Revenue Procedure 2006-27. This revenue procedure does not have any specific provisions relating to abusive transactions. Section 2.02(3) of this revenue procedure provided that the Secretary and Treasury were evaluating the impact of such transactions on the availability of EPCRS' programs. (see details in parallel narrative under Revenue Procedure 2006-27).	Section 4.13[NEW]- Abusive tax avoidance transactions Certain key points outlined below. For additional details refer to the revenue procedure. • SCP is not available to correct any Operational Failure that is directly or indirectly related to the abusive tax avoidance transaction. (see section 4.13(1)(a)) • VCP- If the Service determines that a plan or plan sponsor was, or may have been a party to an abusive tax avoidance transaction, then the matter will be referred to the IRS' Employee Plans' Tax Shelter Coordinator. (see section 4.13(1)(b)) • VCP- 1. Plan failures unrelated to the abusive tax avoidance transactions (determination made by the Tax Shelter Coordinator) may be addressed in a VCP submission. (see section 4.13(1)(b)) 2. The compliance statement cannot be relied on for the purpose of concluding that the plan or Plan Sponsor was not a party to an abusive tax avoidance transaction. (see section 4.13(1)(b)) 3. Even if failures are addressed under VCP, the Service reserves the right to refer the abusive tax avoidance transaction matter for examination. (see section 4.13(1)(b)) • Audit CAP and SCP (for plans Under Examination)- "(i) if the Service determines that a failure is related to the abusive tax avoidance transaction, the Service reserves the right to conclude that neither Audit CAP nor SCP is available for that failure and (ii) if the Service determines that satisfactory corrective actions have not been taken with regard to the transaction, the Service reserves the right to conclude that neither Audit CAP nor SCP is available to the plan." (see section 4.13(1)(c)) • Abusive tax avoidance transaction- generally includes any listed transaction under §1.6011-4(b)(2) and any transactions identified on IRS web site. For plans Under Examination, other transactions are also included. (see 4.13(1)(c);4.13(2))

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 5- Definitions	**Section 5- Definitions**
Section 5.01(2)(a) defines the term "Plan Document Failure".	Section 5.01(2)(a)- "Plan Document Failure" has been updated. *The third sentence (underlined below) has been revised to include interim amendments*. The section provides: "The term "Plan Document Failure" means a plan provision (or the absence of a plan provision) that on its face, violates the requirements of § 401(a) or § 403(a). Thus, for example, the failure of a plan to be amended to reflect a new qualification requirement within the plan's applicable remedial period under § 401(b) is a Plan Document Failure. In addition, if a plan has not been timely or properly amended during an applicable remedial amendment period for adopting good faith or interim amendments with respect to disqualifying provisions, as described in § 1.401-1(b)(1), the plan is considered to have a Plan Document Failure. For purposes of this revenue procedure, a Plan Document Failure includes any Qualification Failure that is a violation of the requirements of § 401(a) or § 403(a) and that is not an Operational Failure, Demographic Failure or Employer Eligibility Failure."
Section 5.01(2)(b) defines the term "Operational Failure".	Section 5.01(2)(b)- "Operational Failure" has been updated. *The update provides that the failure to comply with good faith/interim amendments is also an Operational Failure.* The section provides: "The term "Operational Failure" means a Qualification Failure (other than an Employer Eligibility Failure) that arises solely from the failure to follow plan provisions. A failure to follow the terms of the plan providing for the satisfaction of the requirements of § 401(k) and § 401(m) is considered to be an Operational Failure. A plan does not have an Operational Failure to the extent the plan is permitted to be amended retroactively to reflect the plan's operations (e.g. pursuant to § 401(b)). In the situation where a Plan Sponsor timely adopted a good faith or interim amendment which is not a disqualifying provision as described in § 1.401(b)-1(b)(1), and the plan was not operated in accordance with the terms of such interim amendment, the plan is considered to have an Operational Failure."

CHANGES MADE TO EPCRS
BY REVENUE PROCEDURE 2006-27, IRB 2006-22

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 5.01(2)(d) defines the term "Eligible Employer Failure".	Section 5.01(2)(d)- "Eligible Employer Failure" has been clarified. *New phrase underlined in the definition reproduced below*: "The term "Employer Eligibility Failure" means the adoption of a plan intended to include a qualified cash or deferred arrangement and satisfy the requirements of § 401(a) or §403(a) by an employer that fails to meet the employer eligibility requirements to establish a § 401(k) plan. An Employer Eligibility Failure is not a Plan Document, Operational, or Demographic Failure."
Section 5.01(4) defines the term "Favorable Letter", and it outlines several specific methods for satisfying the requirements for a Favorable Letter.	The revenue procedure updated the definition of "Favorable Letter" in section 5.01(4). The new definition in part provides: " A plan has a current favorable determination letter, opinion letter, or advisory letter if (a), (b), (c), or (d) ….is satisfied: (a) The plan has a favorable determination letter, opinion letter, or advisory letter/certification that considers GUST ..; (b) The plan is initially adopted or effective after December 31, 2001, and the Plan Sponsor timely submits an application for a determination letter or they adopt an approved master or prototype plan or volume submitter plan within the plan's remedial amendment period under § 401(b); (c) The plan is terminated prior to the expiration of the applicable GUST remedial amendment period under § 401(b) and the plan was amended to reflect the provisions of GUST, §§ 125/415, if applicable, (see Rev. Rul. 2002-27, 2002-20 I.R.B. 925), in the case of defined contribution plans, the provisions of the 401(a)(9) final and temporary regulations, and in the case of defined benefit plans, the 1994 Group Annuity Reserving Table (94 GAR) (see Rev. Rul. 2001-62, 2001-53 I.R.B. 632); and (d) The plan is terminated prior to the expiration of the applicable Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) remedial amendment period under § 401(b) and the plan was amended to reflect the provisions of EGTRRA and any other legislation that was in effect when the plan was terminated." *Note: the existence of a favorable determination letter has an impact on the availability of SCP. See section 4.03.*

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 5.01(5) defined the term "Maximum Payment Amount" The definition is reproduced below: The term "Maximum Payment Amount" means a monetary amount that is approximately equal to the tax the Service could collect upon plan disqualification and is the sum for the open taxable years of the: (a) tax on the trust (Form 1041), (b) additional income tax resulting from the loss of employer deductions for plan contributions (and any interest or penalties applicable to the Plan Sponsor's return), and (c) additional income tax resulting from income inclusion for participants in the plan (Form 1040).	Section 5.01(5) clarified the definition of the term "Maximum Payment Amount". The revised definition is reproduced below: The term "Maximum Payment Amount" means a monetary amount that is approximately equal to the tax the Service could collect upon plan disqualification and is the sum, for the open taxable years, of the following: (a) tax on the trust (Form 1041) (and any interest or penalties applicable to the trust return), (b) additional income tax resulting from the loss of employer deductions for plan contributions (and any interest or penalties applicable to the Plan Sponsor's return), (c) additional income tax resulting from income inclusion for participants in the plan (Form 1040), including the tax on plan distributions that have been rolled over to other qualified trusts (as defined in § 402(c)(8)(A)) or eligible retirement plans (as defined in § 402(c)(8)(B)) (and any interest or penalties applicable to the participants' returns), and (d) any other tax that results from a Qualification Failure that would apply but for the correction under this revenue procedure."
Section 5.02(3) defined the term "Excess Amount" as it applies to 403(b) plans. The relevant section in the revenue procedure defined the term as follows: "Excess Amount. The term "Excess Amount" means any contributions or allocations that are in excess of the limits under § 415 for the year (and for years prior to 1/1/02, the § 403(b)(2) exclusion allowance limit for the year)."	Section 5.02(3) revised the definition of the term "Excess Amount" to the following: "Excess Amount. The term "Excess Amount" means any amount returned to ensure that the plan satisfies the requirements of §§ 401(a)(30), 415, or 403(b)(2) (for plan years prior to January 1, 2002). In addition, the term "Excess Amount" includes any distributions required to ensure that the plan complies with the applicable requirements of § 403(b)."

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 5.02(5) defined the term "Total Sanction Amount". This was one of the definitions relating to 403(b) plans. That term has been deleted in the new Revenue Procedure 2006-27. That term has been replaced with the term, Maximum Payment Amount. (see details in parallel narrative under Revenue Procedure 2006-27)	Similar to section 5.01(5) new section 5.02(4) defining "Maximum Payment Amount" was inserted for definitions relating to 403(b) plans. The section provides: "The term "Maximum Payment Amount" means a monetary amount that is approximately equal to the to the tax the Service could collect as a result of the 403(b) Failure and is the sum, for the open taxable years, of the following: (a) additional income tax resulting from income inclusion for employees or other participants (Form 1040), including the tax on distributions that have been rolled over to other qualified trusts (as defined in § 402(c)(8)(A)) or eligible retirement plans (as defined in § 402(c)(8)(B)) (and any interest or penalties applicable to the participants' returns), and (b) any other tax that results from a 403(b) Failure that would apply but for the correction under this revenue procedure."
Section 5.03 defined the term "Under Examination".	The revenue procedure generally retains the same definition of the term "Under Examination" with the following changes/clarification: Section 5.03(1) has been expanded to include "a plan that is under investigation by the Criminal Investigation Division of the Internal Revenue Service." Section 5.03(3) was clarified to provide that "if, during the review process, the agent requests additional information that indicates the existence of a Qualification Failure(s) not previously identified by the Plan Sponsor, the plan is considered to be under an Employee Plans examination. If, in such a case, the determination letter request under review is subsequently withdrawn, the plan is nevertheless considered to be under an Employee Plans examination for purposes of eligibility under SCP and VCP with respect to those issues raised by the agent reviewing the determination letter application."

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
This revenue procedure does not have a specific definition for Orphan Plans. That term was introduced in section 5.06 of the new Revenue Procedure 2006-27. (see details in parallel narrative under Revenue Procedure 2006-27)	Section 5.06[NEW]- Definitions for Orphan Plans "(1) Orphan Plan With respect to VCP and Audit CAP, the term "Orphan Plan" means any Qualified Plan with respect to which an "Eligible Party" (defined in section 5.06(2)) has determined that the Plan Sponsor (a) no longer exists, (b) cannot be located, (c) is unable to maintain the plan, or (d) has abandoned the plan pursuant to regulations issued by the Department of Labor. The term "Orphan Plan" however does not include any plan terminated pursuant to Department of Labor regulations governing the termination of abandoned individual account plans. (2) Eligible Party- For purposes of section 5.06(1), the term "Eligible Party" means: (a) A court appointed representative with authority to terminate the plan and dispose of the plan's assets; or (b) In the case of an Orphan Plan under investigation by the Department of Labor, a person or entity who has accepted responsibility for terminating the plan and distributing the plan's assets; or (c) In the case of a plan to which Title I of the Employee Retirement Income Security Act of 1974 ("ERISA") has never applied, a surviving spouse, who is the sole beneficiary of a plan that provided benefits to a participant who was (i) the sole owner of the business that sponsored the plan and (ii) the only participant in the plan."

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 6- Correction Principles and Rules of General Applicability Consists of provisions that describe the principles and rules that have to be taken account when correcting a failure in any of the 3 EPCRS programs- SCP, VCP and Audit CAP. (see section 6 for details)	**Section 6- Correction Principles and Rules of General Applicability** Consists of provisions that describe the principles and rules that have to be taken account when correcting a failure in any of the 3 EPCRS programs- SCP, VCP and Audit CAP. (see section 6 for details)
Section 6.02 provides that "generally a failure is not corrected unless full correction is made with respect to all participants and beneficiaries". Section 6.02(5) provides for special exceptions to full correction. Exceptions include: (a) the use of reasonable estimates, (b) delivery of small benefits, (c) recovery of small Overpayments and (d) locating lost participants. In section 6.02(5)(c) in part provided that the Plan Sponsor was "required to notify the participant or beneficiary that the Overpayment is not eligible for favorable tax treatment accorded to distributions from Qualified Plans (and, specifically, is not eligible for tax-free rollover)." This notification requirement was deleted in the new Revenue Procedure 2006-27.	Section 6.02(5) was revised as follows: (1) Section 6.02(5)(c) relating to the recovery of small Overpayments was modified. Notification of participants is no longer required in this instance. (2) New exceptions to full correction were added. Specifically section 6.02(5)(e) relating to small Excess Amounts and section 6.02(5)(f) relating to Orphan Plans. The revised sections are reproduced below: Section 6.02(5)(c) provides: "Recovery of small Overpayments. Generally, under VCP or Audit CAP, if the total amount of an Overpayment made to a participant or beneficiary is $100 or less, the Plan Sponsor is not required to seek the return of the Overpayment from the participant or beneficiary." Section 6.02(5)(e) [NEW]- "Generally, under VCP or Audit CAP, if the total amount of an Excess Amount with respect to the benefit of a participant or beneficiary is $100 or less, the Plan Sponsor is not required to distribute or forfeit such Excess Amount. However, if the Excess Amount exceeds a statutory limit, the participant or beneficiary must be notified that the Excess Amount, including earnings, is not eligible for favorable tax treatment accorded to distributions from Qualified Plans (and specifically, is not eligible for tax-free rollover). See section 6.06(1) for such notice requirements." Section 6.02(5)(f) [NEW]- "Orphan Plans. The Service retains the discretion to determine under VCP and Audit CAP whether full correction will be required in a terminating Orphan Plan."

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
This revenue procedure had rules regarding the reporting requirements for loan failures that were corrected pursuant to VCP. The loan failures corrected relate to loans that violated the terms of the plan and § 72(p). They were incorporated in section 6.07. The relevant provisions were outlined as follows: "Special rules relating to reporting plan loan failures. As part of VCP, in the event of a failure relating to a loan to a participant made from a Qualified Plan or a 403(b) Plan that is treated as received as a distribution for purposes of § 72(p) (a deemed distribution), the distribution may be reported on Form 1099-R for the year of correction with respect to the affected participant." *This facility re: recognition of income in the year of correction is preserved in section 6.07(1) of Revenue Procedure 2006-27. In addition, sections 6.07(2) and 6.07(3) were added in Revenue Procedure 2006-27. Loan failures corrected under any of these new provisions could qualify for being treated as if deemed distributions under § 72(p) did not occur.* (see details in parallel narrative under Revenue Procedure 2006-27) *Also, Revenue Procedure 2006-27 introduced a new section 6.02(6). Similar to this revenue procedure, the employee is generally responsible for paying back amounts owed on participant loans. However, Revenue Procedure 2006-27 recognizes that there may be situations where repayment could be required from the employer as part of correction.* (see details in parallel narrative under Revenue Procedure 2006-27)	Section 6.02(6)[NEW]- • Provides that the employee is generally responsible for making the corrective payments for loans corrected in accordance with sections 6.07(2)(b) or (c) and 6.07(3). [Note- section 6.07(2)(b) deals with loans in excess of § 72(p) dollar limit; 6.07(2)(c) deals with loans set up for a period in excess of § 72(p) time limit; 6.07(3) deals with defaulted loans] • Provides that with respect to failure outlined in section 6.07(3), the employer may be required to make part of the corrective payment. Generally, the employer's share is all or part of the additional interest that accumulated on account of such failure. Section 6.07[EXPANDED in this revenue procedure] • When a loan failure, that also violates the provisions of § 72(p), is corrected under VCP then "the deemed distribution may be reported on Form 1099-R with respect to the affected participant for the year of correction (instead of the year of the failure)." (see section 6.07(1)). *Note: Same as section 6.07 of Revenue Procedure 2003-44.* • 6.07(2)(a)[NEW]- The correction methods set forth in section 6.07(2) (b) and (c) and section 6.07(3) are only available for plan loan failures that are corrected through VCP. The correction methods described in section 6.07(2) (b) and (c) and section 6.07(3) are not available if the maximum period for repayment of the loan pursuant to § 72(p)(2)(B) has expired. The Service reserves the right to limit the use of the correction methods listed in section 6.07(2) (b) and (c) and section 6.07(3) to situations that it considers appropriate; for example, where the loan failure is caused by employer action. A deemed distribution corrected under section 6.07(2) (b) or (c) or under section 6.07(3) is not required to be reported on Form 1099-R and repayments made by correction under sections 6.07(2) and 6.07(3) do not result in the affected participant having additional basis in the plan for purposes of determining the tax treatment of subsequent distributions from the plan to the affected participant.

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
	Section 6.07(2)(b)[NEW]- Loans in excess of § 72(p)(2)(A). A failure to comply with plan provisions requiring that loans comply with § 72(p)(2)(A) may be corrected by a repayment to the plan based on the excess of the loan amount over the maximum loan amount under § 72(p)(2)(A)…. After the corrective payment is made, the Applicant may reform the loan to amortize the remaining principal balance as of the date of repayment over the remaining period of the original loan. This is permissible as long as the recalculated payments over the remaining period would not cause the loan to violate the maximum duration permitted under § 72(p)(2)(B). The maximum duration is determined from the date the original loan was made. In addition, the amortization payments determined for the remaining period must comply with the level amortization requirements of § 72(p)(2)(C). Section 6.07(2)(c)[NEW]- Loan terms that do not satisfy § 72(p)(2)(B) or (C). For a failure to repay the loan in accordance with a repayment schedule that complies with § 72(p)(2)(B) or (C), the failure may be corrected by a reamortization of the loan balance in accordance with § 72(p)(2)(C) over the remaining period that is the maximum period that complies with § 72(p)(2)(B) measured from the original date of the loan. Section 6.07(3)[NEW]-" Defaulted loans. A failure to repay the loan in accordance with the loan terms where the terms satisfy § 72(p)(2) may be corrected by (i) a lump sum repayment equal to the additional repayments that the affected participant would have made to the plan if there had been no failure to repay the plan, plus interest accrued as a result of the participant's failure to make the required repayments, (ii) reamortizing the outstanding balance of the loan, including interest, over the remaining payment schedule of the original term of the loan, or (iii) any combination of (i) or (ii).

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
This revenue procedure does not make a distinction between an employee who was not provided with the opportunity to make elective deferrals and an employee who did not receive an allocation of non-elective employer contributions. The "missed deferrals" that arose from the failure to allow an employee to make an election to defer timely, are treated in the same manner as other non-elective employer contributions that should have been made on behalf of the employee.. See, for example, subsection .05 of this revenue procedure's Appendix A. Revenue Procedure 2006-27 distinguishes between these categories of contributions. New section 6.02(7) was added in Revenue Procedure 2006-27. (see details in parallel narrative under Revenue Procedure 2006-27)	Section 6.02(7) [NEW]- Correction for exclusion of employees. If a Qualified Plan has an Operational Failure that consists of excluding an employee that should have been eligible to make an elective contribution under a cash or deferred arrangement or an after-tax employee contribution, the employer should contribute to the plan on behalf of the excluded employee an amount that makes up for the value of the lost opportunity to the employee to have a portion of his or her compensation contributed to the plan accumulated with earnings tax free in the future. This correction principle applies solely to this limited circumstance. It does not, for example, extend to the correction of a failure to satisfy a nondiscrimination test, e.g., the ADP test pursuant to §401(k)(3) and the ACP test pursuant to §401(m)(2). Specific methods and examples to correct this failure are provided for in Appendix A .05 and Appendix B 2.02. Similarly, the methods and examples provided for correcting this failure do not extend to other failures. Thus, the narratives and the examples in Appendix A .05 and Appendix B 2.02 cannot, for example, be used to correct ADP/ACP failures. Finally, the methods and examples do not address situations where an employee was excluded from a plan that provided for the opportunity to make designated Roth contributions.

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 6.04 of this revenue procedure provides guidance regarding correction of failures to obtain the required spousal consent under §§ 401(a)(11) and 417. It provides, "Normally, the correction method under VCP for a failure to obtain spousal consent for a distribution subject to the spousal consent rules under §§ 401(a)(11) and 417 is similar to the correction method described in Appendix A .07. The Plan Sponsor must notify the affected participant and spouse (to whom the participant was married at the time of the distribution) so that the spouse can provide spousal consent to the distribution actually made or the participant may repay the distribution and receive a qualified joint and survivor annuity. In the event that spousal consent to the prior distribution cannot be obtained because the spouse refuses to consent, does not respond to the notice provided or because the spouse cannot be located, the spouse is entitled to a benefit under the plan equal to the portion of the qualified joint and survivor annuity that would have been payable to the spouse upon the death of the participant had a qualified joint and survivor annuity been provided to the participant under the plan at his or her retirement. Such spousal benefit must be provided if a claim is made by the spouse."	Section 6.04 has been reorganized into two sub sections: 6.04(1) and 6.04(2). Sections 6.04(1), 6.04(2)(a), section 6.04(2)(b) have similar provisions to section 6.04 of Revenue Procedure 2003-44. In addition to the existing set of options (described in the parallel narrative under Revenue Procedure 2003-44), this revenue procedure added a new section 6.04(2)(c). It provides: "In the event that spousal consent to the prior distribution is not obtained, the plan may offer the spouse the choice between (i) the survivor annuity benefit described in section 6.04(2)(b) or (ii) a single-sum payment equal to the actuarial present value of that survivor annuity benefit (calculated using the applicable interest rate and mortality table under § 417(e)(3)). Any such single-sum payment is treated in the same manner as a distribution under § 402(c)(9) for purposes of rolling over the payment to an IRA or other eligible retirement plan."
Section 6.05 provides for rules relating to correction by plan amendment.	Section 6.05 has been updated to reflect the updated section 4.06 of this revenue procedure relating to the requirement for a determination letter submission. The section now provides: "Correction by plan amendment. In a case in which correction of a Qualification Failure includes correction of a Plan Document Failure, Demographic Failure, or Operational Failure by plan amendment, a determination letter application may be required. See section 4.06".

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 6.06(2) describes the "Treatment of Excess Amounts under 403(b) plans". The section was divided into two parts- "Distribution of Excess Amounts" and "Retention of Excess Amounts".	Section 6.06(2) of Revenue Procedure 2003-44 has been revised and updated. Generally, the provision relating to "Retention of Excess Amounts" has been eliminated, and the section, as revised, reads as follows: Treatment of Excess Amounts under 403(b) Plans. The distribution of Excess Amounts is not an eligible rollover distribution within the meaning of § 403(b)(8). A distribution of Excess Amounts is generally treated in the manner described in section 3 of Rev. Proc. 92-93 relating to the corrective disbursements of elective deferrals. The distribution must be reported on Forms 1099-R for the year of distribution with respect to each participant or beneficiary receiving such a distribution. Except as otherwise provided in section 6.02(5)(c), where an Excess Amount has been or is being distributed, the Plan Sponsor must notify the recipient that (a) an Excess Amount has been or will be distributed and (b) an Excess Amount is not eligible for favorable tax treatment accorded to distributions from Qualified Plans (and specifically, is not eligible for tax-free rollover).

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 6.09 provided: "Matters subject to excise taxes. (1) Except as provided in paragraph (3) of this subsection, excise taxes and additional taxes, to the extent applicable, are not waived merely because the underlying failure has been corrected or because the taxes result from the correction. Thus, for example, the excise tax on certain excess contributions under § 4979 is not waived under these correction programs. (2) Except as provided in paragraph (3) of this section, the correction programs are not available for events for which the Code provides tax consequences other than plan disqualification (such as the imposition of an excise tax or additional income tax). For example, funding deficiencies (failures to make the required contributions to a plan subject to § 412), prohibited transactions, and failures to file the Form 5500 cannot be corrected under the correction programs. However, if the event is also an Operational Failure (for example, if the terms of the plan document relating to plan loans to participants were not followed and loans made under the plan did not satisfy § 72(p)(2)), the correction programs will be available to correct the Operational Failure, even though the excise or income taxes generally still will apply. (3) As part of VCP, if the failure involves the failure to satisfy the minimum required distribution requirements of § 401(a)(9), in appropriate cases, the Service will waive the excise tax under § 4974 applicable to plan participants. The waiver will be included in the compliance statement. The Plan Sponsor, as part of the submission, must request the waiver and in cases where the participant subject to the excise tax is an owner-employee, as defined in § 401(c)(3), or a 10 percent owner of a corporation, the Plan Sponsor must also provide an explanation supporting the request."	Section 6.09 was changed in the following manner: ections 6.09(1) and (2) of Revenue Procedure 2003-44 were consolidated into section 6.09(1). Reference to the example providing that excise tax under § 4979 cannot be waived is deleted, since that no longer applies. See narrative for section 6.09(4). Also, reference to the example regarding the failure of a loan to satisfy § 72(p)(2) is deleted. The §72(p) issue is dealt with in detail in sections 6.02(6) and 6.07 of this revenue procedure. Section 6.09(2) of this revenue procedure is similar to section 6.09(3) of Revenue Procedure 2003-44. However, it adds that a waiver of excise tax under § 4974 is also possible under Audit CAP. Thus the first sentence of section 6.09(2) now reads: " As part of VCP and Audit CAP, if the failure involves the failure to satisfy the minimum required distribution requirements of § 401(a)(9), in appropriate cases, the Service will waive the excise tax under § 4974 applicable to plan participants. The waiver will be included in the compliance statement or in the closing agreement in the case of Audit CAP." New sections 6.09(3) and 6.09(4) were added to describe circumstances where, under VCP, the Service would not pursue excise taxes under §§ 4972 and 4979. New sections reproduced below: "(3) As part of VCP, if the failure involves a correction that requires the Plan Sponsor to make a plan contribution that is not deductible, in appropriate cases, the Service will not pursue the excise tax under § 4972 on such nondeductible contributions. The Plan Sponsor, as part of the submission must request the relief and provide an explanation supporting the request. (4) As part of VCP, if a failure results in excess contributions as defined in §4979(c) or excess aggregate contributions as defined in §4979(d) under a plan, the Service will not pursue the excise tax under § 4979 in appropriate cases, e.g., where correction is made for any case in which the ADP test was timely performed but, due to the reliance on inaccurate data, resulted in an insufficient amount of excess elective contributions having been distributed to HCEs. However, the Plan Sponsor, as part of the submission, must provide a detailed description of the failure, including the reason for not having corrected."

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Sections 7, 8 and 9- Self Correction (SCP)	**Sections 7, 8 and 9- Self Correction (SCP)**
Available to self-correct operational failures. Highlights summarized below. SCP- Insignificant Operational Failures: Insignificant Operational Failures can be corrected at any time. The program is available even if the Operational Failure is discovered by an agent on examination. SCP for insignificant failures is available for Qualified Plans (401(a)), 403(b) Plans, SEPs and SIMPLE IRAs). SCP- Significant Operational Failures: Not available for SEPs or SIMPLE IRAs. Available for Qualified Plans and 403(b) Plans. Favorable determination letter required for Qualified Plans. Not available if the failure is not corrected by the time the Plan comes "Under Examination." Failure generally must be corrected or substantially corrected by the last day of the second plan year following the plan year in which the failure occurred. The correction period may be extended if the failure relates to Transferred Assets. For correction by plan amendment, the appropriate determination letter application must be submitted before the end of the correction period.	Except for section 9.03, the new revenue procedure retains the same provisions for these sections. However, the interpretation of these provisions may be impacted by the addition/changes to other sections in this revenue procedure. Examples of other sections that have been changed and may have impact on the availability of SCP include: section 4.06 relating to correction by plan amendment, section 4.13 relating to abusive tax avoidance transactions, section 5.01(4) relating to the definition of Favorable Letter and the correction principles in section 6. Section 9.03 has been revised to reflect the revisions made to the determination letter submission requirements in section 4.06. The section now provides, "Correction by plan amendment. In order to complete correction by plan amendment (as permitted under section 4.05) the appropriate determination letter application must be submitted before the end of the plan's applicable remedial amendment period described in Rev. Proc. 2005-66." *Previously RP 2003-44 provided:* Correction by plan amendment. In order to complete correction by plan amendment (as permitted under section 4.05) during the correction period, the appropriate application (i.e., the Form 5300 series or Form 6406) must be submitted before the end of the correction period.

CHANGES MADE TO EPCRS
BY REVENUE PROCEDURE 2006-27, IRB 2006-22

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 10- VCP Procedures Generally, this section provides the framework for evaluating and processing a VCP submission. This section also describes how the VCP procedures relate to determination letter applications and Employee Plans' examinations. (see section 10 for details)	**Section 10- VCP Procedures** Generally, this section provides the framework for evaluating and processing a VCP submission. This section also describes how the VCP procedures relate to determination letter applications and Employee Plans' examinations. (see section 10 for details)
Section 10.03 provided, "Availability of correction of a terminated plan. Correction of Qualification Failures in a terminated plan may be made under VCP, whether or not the plan trust is still in existence."	The information provided in section 10.03 of Revenue Procedure 2003-44 was deleted. The issue of terminated plans is now addressed in section 4.08 of this revenue procedure.

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 10.05 provided, "No concurrent examination activity. Except in unusual circumstances, a plan that has been properly submitted under VCP will not be examined while the submission is pending. This practice regarding concurrent examinations does not extend to other plans of the Plan Sponsor. Thus, any plan of the Plan Sponsor that is not pending under VCP could be subject to examination."	Section 10.04 has similar provisions to section 10.05 of Revenue Procedure 2003-44. In addition to that, it addresses the impact of VCP submissions on examinations when: (a) the submission is a Group Submission and (b) the plan or Plan Sponsor was (or may be) a party to an abusive tax abusive tax avoidance transactions. The section is reproduced below, with the new provisions relating to Group Submissions and abusive tax avoidance transactions underlined: " No concurrent examination activity. Except in unusual circumstances, a plan that has been properly submitted under VCP will not be examined while the submission is pending. Notwithstanding the above, a plan that is eligible for a Group Submission under section 10.11 may be examined while the Group Submission is pending with respect to issues not identified in the Group Submission at the time such plan comes Under Examination. In addition, if it is determined that either the plan or the Plan Sponsor was, or may have been a party to an abusive tax avoidance transaction (as defined in section 4.13(2)), the Service may authorize the examination of the plan, even if a submission pursuant to VCP is pending. This practice regarding concurrent examinations does not extend to other plans of the Plan Sponsor. Thus, any plan of the Plan Sponsor that is not pending under VCP could be subject to examination."
Section 10.06 describes the information required to be submitted when a determination letter application has to be submitted as part of a VCP submission.	Section 10.05 has similar provisions to section 10.06 of Revenue Procedure 2003-44. It has been updated to reflect the provisions of section 4.06. Also, reference to the form 6406 has been deleted. The updated section now provides: Determination letter application for plan amendments related to a VCP submission. In any case in which a determination letter is submitted pursuant to section 4.06, , the Plan Sponsor must submit a copy of the amendment, the appropriate application form (i.e., Form 5300 series) , and the appropriate user fee concurrently and to the same address as the VCP submission. The user fee for the determination letter application and the fee for the VCP submission must be submitted on separate checks made payable to the U.S. Treasury. See section 11.12 for the VCP mailing address.

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 10.07(2) provided, "A submission of a plan under the determination letter program does not constitute a submission under VCP. If the Service in connection with a determination letter application discovers a Qualification Failure, the agent may issue a closing agreement with respect to the failures identified or, if appropriate, refer the case to Employee Plans Examinations. In either case, the fee structure in section 12, applicable to VCP, will not apply. Instead, the fee structure in section 14 relating to Audit CAP will apply. (See sections 13 and 14.) If the Plan Sponsor discovers a Qualification Failure, the Plan Sponsor should submit an application under VCP to correct the failure."	*Section 10.07(2) of Revenue Procedure 2003-44 was revised to retain the same concept (i.e. a determination letter application is not a VCP submission and, to incorporate the new fee structure for certain "non-amender" issues discovered during a review of a determination letter application. The revenue procedure accomplishes this by providing for revised language in section 10.06(2) of this revenue procedure and adding a new section 10.06(3).* The relevant language is reproduced below: Section 10.06(2) provides, "A submission of a plan under the determination letter program does not constitute a submission under VCP. If the Plan Sponsor discovers a Qualification Failure, the Qualification Failure may not be corrected as part of the determination letter process. The Plan Sponsor may use SCP and VCP instead, as applicable. If the Service in connection with a determination letter application discovers a Qualification Failure, the Service may issue a closing agreement with respect to the failures identified or, if appropriate, refer the case to Employee Plans Examinations. In either case, the fee structure in section 12, relating to VCP will not apply. Except as provided in section 10.06(3), the fee structure in section 14 relating to Audit CAP will apply. (See sections 13 and 14.)" Section 10.06(3) [NEW] provides, "If the Service in connection with a determination letter application discovers the plan has not been amended timely for tax legislation changes, the fee structure in section 12.04 will apply."
Section 10.08(7) provided, **"**Issuance of compliance statement. If agreement is reached, the Service will send to the Plan Sponsor an unsigned compliance statement specifying the corrective action required. Within 30 calendar days of the date the compliance statement is sent, a Plan Sponsor must sign the compliance statement and return it and any compliance fee required to be paid at the time that the compliance statement is signed (see section 11.05). The Service will then issue a signed copy of the	Section 10.07(8) revised the former section 10.08(7) of Revenue Procedure 2003-44. The section now provides, **(changes underlined)** **"**Issuance of compliance statement. If agreement is reached, the Service will send to the Plan Sponsor a compliance statement specifying the corrective action required. If the original submission is subsequently materially modified then, unless the Plan Sponsor has submitted a penalty of perjury statement with respect to such subsequent modifications, the Plan Sponsor will be required to sign the compliance statement. In such case, the Service will send to the Plan Sponsor an

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
compliance statement to the Plan Sponsor. If the Plan Sponsor does not send the Service the signed compliance statement (with the compliance fee) within 30 calendar days, the plan may be referred to Employee Plans Examinations for examination consideration."	unsigned compliance statement specifying the corrective action required. Within 30 calendar days of the date the compliance statement is sent, a Plan Sponsor must sign the compliance statement and return it and any compliance fee required to be paid at the time that the compliance statement is signed (see section 11.05). The Service will then issue a signed copy of the compliance statement to the Plan Sponsor. If the Plan Sponsor does not send the Service the signed compliance statement (with the compliance fee) within 30 calendar days, the plan may be referred to Employee Plans Examinations." *The general impact of the change is that if the Service issues a compliance statement that is substantially in accordance with the terms of the original submission, then a compliance statement will be issued without requiring the Plan Sponsor's signature. The Plan Sponsor's signature will be requested only if the resulting compliance statement is substantially different from the terms of the original submission. (Contrast this with the requirement under Revenue Procedure 2003-44, where typically all compliance statements are sent for the Plan Sponsor's signature).*
Section 10.09(1) provided for a general description of a compliance statement, issued once the failures, corrective measures, and revision to administrative procedures have been agreed upon. The section in part, provides: "The compliance statement also provides that the Service will not treat the plan as failing to satisfy the applicable requirements of the Code on account of the failures described in the compliance statement if the conditions of the compliance statement are satisfied."	Section 10.08(1) *generally retains the provisions of section 10.09(1) of Revenue Procedure 2003-44. However, the section adds a situation where the issuance of a compliance statement would not determine whether the corrective action satisfies applicable code requirements.* See addition below: "With respect to a failure to amend a plan timely for (a) good faith plan amendments for..EGTRRA, within the period described in Notice 2001-42 including those changes listed in Notice 2005-5, (b) plan amendments for the final and temporary regulations under § 401(a)(9) .. and (c) interim amendments as provided in section 5 of Rev. Proc. 2005-66, the issuance of a compliance statement will result in the corrective amendments being treated as if they had been adopted timely for the purpose of determining the availability of the remedial amendment period currently described in Rev. Proc. 2005-66. However, the issuance of a compliance statement will not constitute a determination as to whether the plan amendment as drafted complies with the change in qualification requirement."

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 10.09(3) describes the individuals who have been delegated with the authority to sign compliance statements on behalf of the Service.	Section 10.08(3) updates section 10.09(3) of Revenue Procedure 2003-44 to provide that the delegated individuals identified in section 10.09(3) of Revenue Procedure 2003-44 have the authority to sign compliance statements that include relief from any excise tax as provided under section 6.09. [Note: section 6.09 expanded the potential areas of excise tax relief].
Section 10.12 provided guidance regarding "Special rules relating to Group Submissions." This provision generally allows "Eligible Organizations" to correct systemic errors that affect 20 or more plans for a fee that is less than the fee that would apply if each plan had submitted on an individual basis. Section 10.12 (2) provided that "Eligible Organizations" include "either (a) a Sponsor (as that term is defined in section 4.09 of Rev. Proc. 2000-20 2000-1 C.B. 553) of a master or prototype plan, (b) an insurance company or other entity that has issued annuity contracts or provides services with respect to assets for 403(b) Plans, or (c) an entity that provides its clients with administrative services with respect to Qualified Plans, 403(b) Plans, SEPs or SIMPLE IRA Plans." The provision also generally requires that an examination of an individual plan is not precluded until the Eligible Organization discloses the identity of the Plan or Plan Sponsor. The relevant provision was provided for in section 10.12(3)(d), which is reproduced below: "Notwithstanding section 10.05, until the Eligible Organization provides the Service with the information of section 10.12(3)(c) with respect to a Plan Sponsor and its plans, a Group Submission does not preclude or impede an examination of the Plan Sponsor(s) or its plans."	Section 10.11 generally retains the principles outlined in section 10.12 of Revenue Procedure 2003-44 regarding Group Submissions. The following clarifications/changes were added. Section 10.11(1) added provisions that would allow Operational Failures and Employer Eligibility Failures to be corrected under the Group Submissions procedure. A clarifying provision was added in section 10.11(1) providing that "If a Sponsor of a master or prototype plan submits failures with respect to more than one master or prototype plan, each plan will be treated as a separate submission and a separate fee must be submitted for each prototype plan. Similarly, if a Volume Submitter practitioner submits failures with respect to more than one Volume Submitter plan, each plan will be treated as a separate submission and a separate fee must be submitted for each specimen plan." *For example, what if a prototype provider has a problem with respect to its profit sharing plan and its money purchase plan documents? The profit sharing plan, assuming the criteria are satisfied, would constitute its own group submission and the money purchase plan would be the subject of a separate group submission. The two plans cannot be combined into a single group submission, even if the error being corrected is identical.* Section 10.11(2) clarified that an Eligible Organization includes a Volume Submitter practitioner. Section 10.11(3)(c): *A sentence was added in section 10.11(3)(c) clarifying the timing of submission of identifying information.* It provides, "The aforementioned list can be submitted at any stage of the submission process provided that the requirements of section 10.11(3)(b) have been satisfied." *Also, submission of list by electronic format is encouraged. New sentence added, which provides*: "Applicants are encouraged to submit the list on computer disk in Microsoft Word." The rules regarding employee plans examinations, when the plan is subject to a Group Submission is modified. Section 10.11(3)(d) provides: "Notwithstanding section 4.02, if a Plan Sponsor of a plan that is eligible to be included in the Group Submission is

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
	notified of an impending Employee Plans examination after the Eligible Organization filed the Group Submission application, the Plan Sponsor's plan will be included in the Group Submission. However, with respect to such plan, the Group Submission will not preclude or impede an examination of the plan with respect to any failures not identified in the Group Submission at the time the Plan comes under examination." *The impact of this provision is that if an individual plan receives notice of examination after the date of the filing of the Group Submission, the applicable failure could still be corrected with that filing. That would be the case even if the identity of the individual plan or plan sponsor was not disclosed to the Service on the date that the plan sponsor received notice of such examination. However, the examination would still proceed and cover other issues that are not the subject of the Group Submission.*

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 11 Application Procedures for VCP Generally describes the information and items needed for a complete VCP submission.	**Section 11 Application Procedures for VCP** Generally describes the information and items needed for a complete VCP submission**.**
Section 11.01 refers to the general application procedures.	Section 11.01 added a provision to incorporate the streamlined Application procedure described in Appendix F. The new sentence provides: "If the sole failure involves the failure by the Plan Sponsor to amend a plan timely for (a) good faith plan amendments for EGTRRA, (b) plan amendments for the final and temporary regulations under § 401(a)(9) or (c) interim amendments, then the Plan Sponsor may follow the streamlined submission procedure described in Appendix F. In such circumstance, a complete submission pursuant to Appendix F will satisfy the submission requirements provided below."
Section 11.02 provides a list of items that need to be included in a VCP submission. That list has been clarified and updated in the new Revenue Procedure 2006-27. (See parallel narrative under Revenue Procedure 2006-27 for the updates and changes)	Section 11.02(1) was expanded to require the identification of the type of plan being submitted. It provides (**new language underlined**), " A statement identifying the type of plan submitted (e.g., Qualified Plan, 403(b) Plan, SEP, or SIMPLE IRA Plan) and, if applicable, whether the submission is a Group Submission, an Anonymous Submission, a nonamender submission**,** a multiemployer or multiple employer plan submission, or an Orphan Plan submission. In addition, if the submission involves a Qualified Plan, the statement should also identify the type of Qualified Plan being submitted (e.g. Defined Benefit, Money Purchase, Profit Sharing, or Stock Bonus, and 401(k) or ESOP)." Section 11.02(11)[NEW] provides, " A statement that neither the plan nor the Plan Sponsor has been a party to an abusive tax avoidance transaction (as defined in section 4.13(2)) or a brief identification of any abusive tax avoidance transaction to which the plan or the Plan Sponsor has been a party." Section 11.02(15) updated the submission requirement for Group Submissions in section 11.02(14) of Revenue Procedure 2003-44. It provides (**new language underlined**),

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
	"A Group Submission must be signed by the Eligible Organization or the Eligible Organization's authorized representative and accompanied by a copy of the relevant portions of the plan document(s). In addition, a Group Submission must include a separate page for each affected Plan Sponsor that provides the Plan Sponsor's name, EIN, plan name, and failure(s)."
Section 11.03 provides for a list of "Required Documents" that need to be included with the VCP Submission. That list has been clarified and updated in the new Revenue Procedure 2006-27. (See parallel narrative under Revenue Procedure 2006-27 for the updates and changes)	Section 11.03(1) asks for selected portions of the form 5500 (or for plans that did not file a form 5500, information that would normally be contained in that return). This section has been expanded to require that the Financial Information Schedule (or asset information that would be contained in that schedule) be included. (See section 11.03(1) for details).
Section 11.07 provided, "Power of attorney requirements. To sign the submission or to appear before the Service in connection with the submission, the Plan Sponsor's representative must comply with the requirements of section 9.02(11) and (12) of Rev. Proc. 2003-4, 2003-1 I.R.B. 123."	Section 11.07 has been updated to clarify the "Power of attorney" requirement. It now provides: "Power of attorney requirements. To sign the submission or to appear before the Service in connection with the submission, the Plan Sponsor's representative must comply with the requirements of section 9.02(11) and (12) of Rev. Proc. 2006-4, 2006-1 I.R.B. 128 and submit Form 2848 Power of Attorney and Declaration of Representative. A Form 2848 which designates a representative not qualified to sign Part II of the Form 2848, e.g., an unenrolled return preparer, will not be accepted. A Plan Sponsor may authorize an individual, such as an unenrolled return preparer, to inspect or receive confidential information using Form 8821 Tax Information Authorization (See Form 8821 and Instructions.)"
	Section 11.11[NEW] provides, "Acknowledgement Letter. The Service will acknowledge receipt of a submission if the Plan Sponsor or the Plan Sponsor's representative completes the Acknowledgement Form in Appendix E and includes it in the submission."
	Section 11.14[NEW] provides guidance on the assembly of the submission package.

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 12- VCP Fees Section 12.02(1) established a fixed fee (based on the number of participants/employees) for all VCP requests, including Anonymous submissions, involving Qualified Plans and/or 403(b) Plans. Section 12.02(1) provided, "VCP fee for Qualified Plans and 403(b) Plans. (1) Subject to section 12.02(2), the compliance fee for a submission under VCP for Qualified Plans and 403(b) Plans (including Anonymous Submissions) is determined in accordance with the following chart. For 403(b) Plans, the fee is determined with reference to the number of employees rather than participants. . . ." The fee chart is recreated below: **# of participants/employees — fee** **20 or fewer . . . . . $750** **21 to 50 . . . . . $1,000** **51 to 100. . . . . $2,500** **101 to 500. . . . . $5,000** **501 to 1,000 . . . . . $8,000** **1,001 to 5,000. . . . . $15,000** **5,001 to 10,000. . . . . $20,000** **over 10,000. . . . . $25,000** Section 12.02(2) provided, "In the case of a 403(b) Plan, if the VCP submission includes Excess Amounts that are corrected pursuant to section 6.06(2)(b), a fee equal to at least ten percent of the Excess Amounts, adjusted for earnings through the date of the VCP application, contributed or allocated in the calendar year of the VCP application and in the three calendar years prior thereto will be imposed. If there is a failure to satisfy both the § 403(b)(2) and § 415 limits with respect to a single employee for a year, the fee will take into account only the larger Excess Amount. This fee is in addition to the 403(b) Plan compliance fee in section 12.02(1)." [Note- this provision has been DELETED in Revenue Procedure 2006-27]	**Section 12- VCP Fees** • VCP Fee structure in section 12.02(1) remains unchanged. However, new sections 12.02(2) and 12.02(3) were inserted to incorporate certain situations, where the fee structure in section 12.02(1) would not apply. Section 12.03 revised the compliance fee for certain non-amender failures. In addition, section 12.05 relating to the fee for SEPs/SIMPLE IRAs has been changed. • Section 12.02(2) of Revenue Procedure 2003-44 regarding VCP fees for 403(b) plans with Excess Amounts has been DELETED. • Section 12.02(2)[NEW] provides, "If (a) the VCP submission involves the failure to satisfy the minimum distribution requirements of § 401(a)(9) for 50 or fewer participants, (b) such failure is the only failure of the submission, and (c) the failure would result in the imposition of the excise tax under § 4974, the compliance fee is $500." • Section 12.02(3)[NEW] provides, "At the discretion of the Service, the VCP fee may be waived in the case of a terminating Orphan Plan. In such cases, the submission must include a request for a waiver of the VCP fee." • Section 12.03- The following provision was added: "Notwithstanding the above, the compliance fee for a submission that contains only a failure to amend the plan timely with respect to (a) good faith plan amendments for EGTRRA within the period described in Notice 2001-42 including those changes listed in Notice 2005-5, (b) plan amendments for the § 401(a)(9) final and temporary regulations within the period described in Rev. Proc. 2002-29, as modified by Rev. Proc. 2003-10, or (c) interim amendments as provided in section 5 of Rev. Proc. 2005-66 is $375.00 for each year of the failure." *(Note: The $375 fee would apply to Appendix F submissions)* • Section 12.05 revised the fee for SEPs/SIMPLE IRAs from $500 to $250. The Service, however, reserves the right to impose the fee schedule under section 12.02 (i.e. the fee schedule for qualified plans) or section 12.06 (relating to the VCP fee for egregious failures) in appropriate circumstances.

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section- Description of Audit CAP Section 13.01 provided, "Audit CAP requirements. If the Service identifies a Qualification or 403(b) Failure (other than a failure that has been corrected in accordance with SCP or VCP) upon an Employee Plans or Exempt Organizations examination of a Qualified Plan, 403(b) Plan, SEP, or SIMPLE IRA Plan, the requirements of this section 13 are satisfied with respect to the failure if the Plan Sponsor corrects the failure, pays a sanction in accordance with section 14, satisfies any additional requirements of section 13.03, and enters into a closing agreement with the Service." Section 13.03 provided, "Additional requirements. Depending on the nature of the failure, the Service will discuss the appropriateness of the plan's existing administrative procedures with the Plan Sponsor. If existing administrative procedures are inadequate for operating the plan in conformance with the applicable requirements of the Code, the closing agreement may be conditioned upon the implementation of stated procedures. In addition, for Qualified Plans, the Plan Sponsor may be required to obtain a Favorable Letter before the closing agreement is signed unless the Service determines that it is unnecessary based on the facts and circumstances (for example, because the plan already has a Favorable Letter and no significant amendments are adopted). If a Favorable Letter is required, the Plan Sponsor is required to pay the applicable user fee for obtaining the letter.	**Sections 13- Description of Audit CAP** • Audit CAP requirements remain unchanged. • Section 13.03 re: additional requirements, revises the requirements for the necessity to obtain a Favorable Letter. *The relevant section in Revenue Procedure 2003-44 in part provided:"the Plan Sponsor may be required to obtain a Favorable Letter before the closing agreement is signed unless the Service determines that it is unnecessary based on the facts and circumstances (for example, because the plan already has a Favorable Letter and no significant amendments are adopted)." The new section 13.03 replaces the facts and circumstances standard for the purpose of determining whether a Favorable Letter requirement, with the requirements of section 4.06. That is, the determination of whether a Favorable Letter is required is based on the provisions of section 4.06 of this revenue procedure.* Accordingly, the language above is replaced with the following: "In addition, for Qualified Plans, pursuant to section 4.06, the Plan Sponsor may be required to obtain a Favorable Letter before the closing agreement is signed. If a Favorable Letter is required, the Plan Sponsor is required to pay the applicable user fee for obtaining the letter."

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Section 14- Audit CAP sanction Section 14.01 provided, "Determination of sanction. The sanction under Audit CAP is a negotiated percentage of the Maximum Payment Amount. For 403(b) Plans, SEPs and SIMPLE IRA Plans, the sanction is a negotiated percentage of the Total Sanction Amount. Sanctions will not be excessive and will bear a reasonable relationship to the nature, extent, and severity of the failures, based on the factors below." Section 14.02 provided, "Factors considered. Factors include: (1)the steps taken by the Plan Sponsor to ensure that the plan had no failures, (2)the steps taken to identify failures that may have occurred, (3)the extent to which correction had progressed before the examination was initiated, including full correction, (4)the number and type of employees affected by the failure, (5)the number of nonhighly compensated employees who would be adversely affected if the plan were not treated as qualified or as satisfying the requirements of § 403(b), § 408(k) or § 408(p), (6)whether the failure is a failure to satisfy the requirements of § 401(a)(4), § 401(a)(26), or § 410(b), either directly or through § 403(b)(12), (7)the period over which the failure(s) occurred (for example, the time that has elapsed since the end of the applicable remedial amendment period under § 401(b) for a Plan Document Failure), and (8)the reason for the failure(s) (for example, data errors such as errors in transcription of data, the transposition of numbers, or minor arithmetic errors). Factors relating only to Qualified Plans also include: (1)whether the plan is the subject of a Favorable Letter, (2)whether the plan has both Operational and other failures, (3)the extent to which the plan has accepted Transferred Assets, and the extent to which the failure(s) relate to Transferred Assets and occurred before the transfer, and (4)whether the failure(s) were discovered during the determination letter process. Additional factors relating only to 403(b) Plans include:(1)whether the plan has a combination of Operational, Demographic, or Employer Eligibility Failures,(2)the extent to which the failure relates to Excess Amounts, and (3)whether the failure is solely an Employer Eligibility Failure.	**Section 14- Audit CAP sanction** Section 14.01 was revised to provide: " Except as otherwise provided in section 14.04, the sanction under Audit CAP is a negotiated percentage of the Maximum Payment Amount. Sanctions will not be excessive and will bear a reasonable relationship to the nature, extent and severity of the failures, based on the factors below." *[Note: the definition of Maximum Payment Amount has been revised by this revenue procedure. The term "Total Sanction Amount" has been eliminated and has been replaced with the "Maximum Payment Amount." The definition for "Maximum Payment Amount" for 403(b) plans is similar to the definition for the same term for qualified plans.]* Section 14.02 addresses the factors considered in negotiating the Audit CAP sanction. The factors described in section 14.02 of Revenue Procedure 2003-44 have been retained. In addition, the section added a new factor relating to Qualified Plans, which provides, "If one of the failures discovered during an Employee Plans examination includes the failure to amend the plan timely for relevant legislation, it is expected that the sanction will be greater than the applicable fee described in section 14.04." Section 14.04 [NEW] provides for a fee structure "for nonamenders discovered during the determination letter application process not related to a VCP submission." Fee table reproduced below:

Number of Participants	EGTRRA/ subsequent legislation	GUST/ 401(a)(9) Regs	UCA/ OBRA '93	TRA '86	T/D/R	ERISA
20 or less	$ 2,500	$ 3,000	$ 3,500	$ 4,000	$ 4,500	$ 5,000
21-50	$ 5,000	$ 6,000	$ 7,000	$ 8,000	$ 9,000	$10,000
51-100	$ 7,500	$ 9,000	$10,500	$12,000	$13,500	$15,000
101-500	$12,500	$15,000	$17,500	$20,000	$22,500	$25,000
501-1,000	$17,500	$21,000	$24,500	$28,000	$31,500	$35,000
1,001-5,000	$25,000	$30,000	$35,000	$40,000	$45,000	$50,000
5,001 – 10,000	$32,500	$39,000	$45,500	$52,000	$58,500	$65,000
Over 10,000	$40,000	$48,000	$56,000	$64,000	$72,000	$80,000

CHANGES MADE TO EPCRS
BY REVENUE PROCEDURE 2006-27, IRB 2006-22

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
SECTION 15. EFFECT ON OTHER DOCUMENTS .01 Revenue procedure 2002-47 modified and superseded. Rev. Proc. 2002-47 is modified and superseded by this revenue procedure.	**SECTION 15. EFFECT ON OTHER DOCUMENTS** .01 Revenue procedure 2003-44 modified and superseded. Rev. Proc. 2003-44 is modified and superseded by this revenue procedure.
SECTION 16. EFFECTIVE DATE This revenue procedure is generally effective October 1, 2003; however, plan sponsors are permitted, at their option, to apply the provisions of this revenue procedure on or after June 5, 2003. Specifically, unless a plan sponsor applies the provisions of this revenue procedure earlier, this revenue procedure is effective: (1) with respect to SCP, for failures for which correction is not complete before October 1, 2003; (2) with respect to VCP, for applications submitted on or after October 1, 2003; and (3) with respect to Audit CAP, for examinations begun on or after October 1, 2003.	**SECTION 16. EFFECTIVE DATE** This revenue procedure is generally effective September 1, 2006. However, (1) sections 11.11, 11.14, and 14.04 are effective on or after May 30, 2006 and (2) plan sponsors are permitted, at their option, to apply the provisions of this revenue procedure on or after May 30, 2006. Specifically, except in the case of (1) above and unless a plan sponsor applies the provisions of this revenue procedure earlier, this revenue procedure is effective: (a) with respect to SCP, for failures for which correction is not complete before September 1, 2006; (b) with respect to VCP, for applications submitted on or after September 1, 2006; and (c) with respect to Audit CAP, for examinations begun on or after September 1, 2006

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Appendix A- OPERATIONAL FAILURES AND CORRECTION METHODS For Qualified Plans, any correction method permitted under Appendix A is deemed to be a reasonable and appropriate method of correcting the related Qualification Failure. The new Revenue Procedure 2006-27 updates the correction methods deemed to be reasonable and appropriate.	**Appendix A- OPERATIONAL FAILURES AND CORRECTION METHODS**
Appendix A .05 provides for a method to correct the following problem: "Exclusion of an eligible employee from all contributions or accruals under the plan for one or more plan years"	Appendix A .05(2) was added to describe the corrective contribution for an employee that was improperly excluded from a plan that provides benefits subject to § 401(k) or § 401(m). For an employee excluded from making elective deferrals, contributions are required for the "missed deferral opportunity". Contribution = 50% of employee's missed deferral. ADP is used for determining employee's missed deferral for traditional 401(k) plans. For safe harbor 401(k) plans, the deferral percentage is assumed to be 3% (or higher, if the plan provides for a 100% or more favorable match for a higher percentage of deferral) With respect to an employee's exclusion from after-tax employee contributions, contributions are required for the "missed opportunity for making after-tax employee contributions. Contribution= 40% of missed after-tax employee contributions. ACP is used for determining missed after-tax employee contributions. For an employee excluded from a plan that provides for matching contributions, the corrective contribution for the excluded employee is equal to the matching contribution that the employee would have received had the employee made a deferral equal to the missed deferral. (Note- This differs from Appendix A .05 of Revenue Procedure 2003-44, which provides for the determination of the matching contribution using ACP). See Appendix A .05(2) for additional details. Also see Appendix B 2.02 with accompanying examples 3 through 10.
Appendix A .07 provides for a method to correct for the following problem: "Failure to obtain participant and/or spousal consent for a distribution subject to the participant and spousal consent rules under §§ 401(a)(11), 411(a)(11) and 417."	Appendix A .07(2) was added to provide an alternative to the existing set of options for correcting the following problem: "Failure to obtain participant and/or spousal consent for a distribution subject to the participant and spousal consent rules under §§ 401(a)(11), 411(a)(11) and 417." This addition is consistent with the correction method outlined in section 6.04 of this revenue procedure.

CHANGES MADE TO EPCRS
BY REVENUE PROCEDURE 2006-27, IRB 2006-22

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Appendix B- CORRECTION METHODS AND EXAMPLES;EARNINGS ADJUSTMENT METHODS AND EXAMPLES For Qualified Plans, any correction method permitted under Appendix B is deemed to be a reasonable and appropriate method of correcting the related Qualification Failure. The new Revenue Procedure 2006-27 updates the correction methods deemed to be reasonable and appropriate.	**Appendix B- CORRECTION METHODS AND EXAMPLES;EARNINGS ADJUSTMENT METHODS AND EXAMPLES**
Appendix B 2.02 provides for a method to correct for the following problem: Exclusion of Eligible Employees.The problem is divided into two parts: (1) Exclusion of Eligible Employees in a 401(k) or (m) Plan and (2) Exclusion of Eligible Employees in a Profit Sharing Plan.	Appendix B 2.02(1), regarding the "Exclusion of Eligible Employees in a 401(k) or (m) Plan" is updated to reflect the correction principle outlined in section 6.02(7) of this revenue procedure. Also, see updated examples 3 through 10 in this subsection.
Appendix B 2.07 provides for situations that can be corrected with the adoption of a retroactive plan amendment. These situations include: (1) 401(a)(17) failure; (2) Hardship Distribution failure; and (3) Inclusion of Ineligible Employee failure.	In addition to the situations already provided for in Revenue Procedure 2003-44, Appendix B 2.07 extends the option of correction by the adoption of a retroactive amendment to correct "the Operational Failure of permitting plan loans to employees under a plan that does not provide for plan loans. The plan is amended retroactively to provide for the plan loans that were made available. This paragraph does not apply unless (i) the amendment satisfies § 401(a), and (ii) the plan as amended would have satisfied the qualification requirements of § 401(a) (and the requirements applicable to plan loans under § 72(p)) had the amendment been adopted when plan loans were first made available."

CHANGES MADE TO EPCRS
BY REVENUE PROCEDURE 2006-27, IRB 2006-22

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Appendix C- VCP CHECKLIST The purpose of this checklist is to assist the Applicant in determining whether the VCP submission is complete. This checklist is updated in Revenue Procedure 2006-27	**Appendix C- VCP CHECKLIST** New items on the checklist include: • Applicants directed to Appendix F where the submission consists "solely of a failure to amend a plan timely for (a) good faith plan amendments for EGTRRA, (b) plan amendments for the final and temporary regulations under § 401(a)(9) or (c) interim amendments." • Information regarding a plan or plan sponsor's participation in an abusive tax avoidance transaction. • Submission of an Appendix E acknowledgement letter. • Request for waiver of excise tax under § 4972 or §4979 • Request for relief from treatment of loans being corrected under this revenue procedure as distributions pursuant to § 72(p). • Information on whether the plan is a terminating Orphan Plan and whether a waiver of the VCP fee is being requested. • Whether the submission was assembled in accordance with the provisions of section 11.14. Items on the checklist which have been expanded/clarified include: • Power of Attorney information- Request for either form 2848 or form 8821. Form 2848 can only be submitted by individuals who satisfy certain criteria. • Determination letter application- whether the form 8717 and the appropriate user fee were submitted. • 5500 information- In addition to the first 3 pages of the form 5500, the Financial Information Schedule is also requested.

CHANGES MADE TO EPCRS
BY REVENUE PROCEDURE 2006-27, IRB 2006-22

REVENUE PROCEDURE 2003-44	REVENUE PROCEDURE 2006-27
Appendix D Provides two sample formats to assist Plan Sponsors in preparing VCP submissions. The first sample is a generic format that can be used for Operational Failures, Demographic Failures, Employer Eligibility Failures, and Plan Document Failures (other than nonamenders). The second sample is a format designed specifically for nonamenders.	**Appendix D** The formats are retained and updated.
	Appendix E [NEW] Acknowledgement Letter to be submitted with the submission. *Designed to facilitate faster feedback, from the Service, regarding receipt of the VCP submission.*
	Appendix F [NEW] Streamlined submission procedure for certain non amenders. *Designed to facilitate quick resolution of submissions where the sole failure is the failure to timely adopt interim amendments.i.e. good faith EGTRRA amendments, amendments for IRC 401(a)(9) final and temp. regulations, and interim amendments provided for in RP 2005-66.*